United Nations A/HRC/37/NGO/77

General Assembly

Distr.: General
7 February 2018

English only

Human Rights Council
Thirty-seventh session
26 February-23 March 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[2 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-01839(E)
1801839

Please recycle

INDONESIA: Neither recognition nor protection for Human Rights Defenders

The Asian Legal Resource Centre (ALRC) wishes to inform the UN Human Rights Council (UNHRC) regarding the situation of Human Rights Defenders in Indonesia (HRD). Defenders are still targeted for human rights violations in various patterns and forms. ALRC'S sister organization, the Asian Human Rights Commission (AHRC), notes and reports that human rights violations mostly targeted HRD'S who advocate environment, land rights and anti-corruption cases. We do believe that massive human rights violations in the area of environment and land are due to Government policy, under President Joko Widodo's administration. He prefers to feature infrastructure development in order to boost economic development. The Government believes that by developing massive public infrastructures such as roads, airports, they will attract more international investment to Indonesia.

Up until now, Indonesia has yet to formally recognize the existence of Human Rights Defenders. But, Indonesia does have a National Law which specifically protects environmental activists. Law No. 32, 1999 on Environmental Protection Article 66, quotes "Everybody struggling for a right to proper and healthy environment may not be charged with criminal or civil offenses." However, in fact, environment activists still become targets of various forms and patterns of human rights violations, *inter alia*, fabricated cases, murder, arbitrary arrest, detention and torture.

Take for example the case that took place in 2017. It was a fabricated case against Mr. Budi Setiawan alias Budi Pego, an environmental activist. He led a massive protest against the mining operation in Tumpang Pitu, Banyuwangi Regency, East Java Province. The Police accused him of erecting and circulating a Communist logo on a banner written to reject the mining in Tumpang Pitu. Expansion of extractive industry along East Java's south coast has significantly increased social and ecological crises. Look at the example in 2012 of Tumpang Pitu, mining operations conducted by Bumi Suksesindo Company (PT. Bumi Suksesindo/PT BSI) and Damai Suksesindo Company/PT. Damai Suksesindo/PT DSI). A similar case also occurred in June 2017. Mr. Arifin Wardiyanto, an independent environmental activist in Yogyakarta Province, was brutally attacked in his own home. This assault was due to his advocacy efforts to preserve the environment in the Merapi mountains from illegal mining operations.

Besides human rights violations against environmental activists, we also documented and reported on the brutal attack against Mr. Sukma Hidayat (38), an-anti corruption activist, in Palembang, South Sumatera Province. Sukma and his wife were attacked with acid after he requested the Corruption Eradication Commission (KPK) to take on a corruption case from the Attorney General. Despite Sukma's report to the Police, no progress has been made up to now.

We note that the Government has failed to ensure protection for Human Rights Defenders in Indonesia. So far, the Parliament has excluded Bills for Human Rights Defenders Protection. The Government has not developed a legal basis in which to protect HRD'S and has not formally recognized the existence of the HRD'S in Indonesia. President Joko Widodo's Administration does not have a priority policy for HRDs. During the past ten years, the Bill on the protection of HRD'S was discussed, but the Parliament was reluctant to enact the Bill. On the contrary, protection for HRD'S was merely adopted by the National Commission on Human Rights (Komnas HAM) to be desk HRD'S with their main function to monitor human rights violations against HRD'S.

National Police and Civil Service Police Unit (Satpol PP) also committed forced dissolutions. They brutally attacked local environmental activists and students who advocated land confiscation in Kulon Progo, Special Region of Yogyakarta Province (DIY). As a Law Enforcement Agency, the Police prefer to use violence rather than communication with local residents to find peaceful solutions. The police are independent, having been separated from the Military since 2002. But they have not changed their paradigm, preferring violence in dealing with the public.

A lack of informed law enforcement personnel is still a problem in Indonesia. It is the result of light punishments and impunity. Courts merely prosecute the lower ranks, while the Law Enforcement Agencies fail to prosecute the intellectual actors behind the scenes. So far there is no best practice related to law enforcement in cases of human rights

violations against HRD'S. An example is the murder case of Mr. Jopi Teguh Lasmana Peranginangin (39). On 11 April 2016, Military Judges of the Military Court II 08 Jakarta, convicted Private-in-Charge (Praka) Joko Lestanto, a member of the Marine Corps' Amphibious Reconnaissance Battalion (Yon Thaifib Marinir TNI AL), to two years in prison and dishonorable discharge from the Navy. There has been no further investigation. This, despite many witnesses having stated that more than four people (not in uniform) attacked Jopi. The investigation resulted in only one Navy personnel being charged.

This judgment has proven that law enforcement in Indonesia has failed to ensure protection for HRD'S. They remain in an uncertain situation. There is no recognition from the State. They are at high risk. They are targets of various human rights violations due to their advocacy efforts to save the environment, traditional indigenous people's land, anti-corruption cases, and the like. Light punishments prove that the criminal justice system has been unsuccessful in developing a better, disciplined standard and legal precedence to enhance accountability of Law Enforcement Agencies in Indonesia. Therefore, automatically, due to no best practice or improved legal precedence, there is no deterrent effect. The same cases constantly recur.

We do believe that the above-mentioned case examples are more than enough to describe the real situation of human rights defenders in Indonesia. These circumstances explain that President Joko Widodo has failed to ensure that the State is present to protect all its citizens, as stated in the President's mission and vision statements.

Considering the lack of protection of minority religions and beliefs in Indonesia, together with repetitive persecution against them , we respectfully request the HRC to:

a. Urge the Government to ensure protection for Human Rights Defenders and conduct law enforcement against whomever has committed human rights violations against HRD'S, in particular those who work for land reform, anti-corruption and the environment;
b. Urge the Government to develop policies and regulations that enhance the protection of Human Rights Defenders;
c. Use your influence with the Government so they officially invite the UN Special Rappertour to see first-hand the grass roots situation of human rights defenders in Indonesia.